

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

BRANDON FAVOR LLP,

Case No.: 3:23-cv-00585-CSD

Plaintiff

Order

v.

USHER RAYMOND, et al,

Defendants

Plaintiff has filed an application to proceed *in forma pauperis* (IFP) and pro se civil rights complaint, which he marks as his second amended complaint. Plaintiff's filings indicate that he is an inmate in custody of the Los Angeles County Sheriff at the Men's Central Jail.

The Local Rules of Practice for the District of Nevada provide: "Any person who is unable to prepay the fees in a civil case may apply to the court for authority to proceed *in forma pauperis*. The application must be made on the form provided by the court and must include a financial affidavit disclosing the applicant's income, assets, and liabilities." LSR 1-1. When a prisoner seeks to proceed without prepaying the filing fee, in addition to filing the affidavit, the prisoner is required to submit a certified copy of the trust fund account statement (or institutional equivalent) for the six-month period immediately preceding the filing of the complaint. The statement must be obtained from the appropriate official at the prison or detention facility where the prisoner is or was confined. 28 U.S.C. § 1915(a)(2).

When a prisoner brings a civil action IFP, the prisoner is still required to pay the full amount of the filing fee. The court is required to assess, and when funds exist, collect an initial partial payment of 20 percent of the greater of: (A) the average monthly deposits in the prisoner's account or (B) the average monthly balance in the prisoner's account for the six-

1 month period immediately preceding the filing of the complaint. Thereafter, whenever the
2 prisoner's account exceeds \$10, the prisoner must make monthly payments of 20 percent of the
3 preceding month's income credited to the prisoner's account until the filing fees are paid. The
4 funds are to be forwarded by the agency having custody of the prisoner. 28 U.S.C. § 1915(b)(1),
5 (2).

6 For actions filed before December 1, 2023, such as this one, the filing fee is \$402 (the
7 \$350 filing fee and \$52 administrative fee). If an inmate does not qualify for IFP status, he must
8 pay the full \$402 filing fee. If the inmate qualifies for IFP status, the \$52 administrative fee is
9 waived, and the inmate will only pay the \$350 filing fee over time.

10 Plaintiff has not submitted an IFP application for an inmate on the District of Nevada's
11 form. Nor has he included the required certified copy of his trust fund account statement signed
12 by the appropriate official from the jail where he is in custody.

13 CONCLUSION

14 Plaintiff's IFP application (ECF No. 1) is **DENIED WITHOUT PREJUDICE**.

15 The Clerk shall **SEND** Plaintiff a copy of the instructions and application to proceed IFP
16 for an inmate. Plaintiff has **30 days** from the date of this Order to either file his completed IFP
17 application or pay the full \$402 filing fee. The application must be accompanied by all of the
18 required documents, including:

19 (a) the completed **application to proceed IFP for an inmate** on the court's
20 approved form (i.e., pages 1-3 with the inmate's two signatures on page 3);

21 (b) a **financial certificate** properly signed by both the inmate and a prison or jail
22 official (i.e., page 4 of the court's approved form); and
23

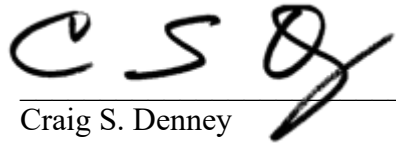
(c) a copy of the inmate's prison or jail trust fund account statement for the previous six-month period.

Once Plaintiff has filed his completed IFP application and financial certificate or paid the filing fee, the court will screen the complaint pursuant to 28 U.S.C. § 1915(e)(2)(B) or 28 U.S.C. § 1915A, or both. Both require dismissal of a complaint, or any portion thereof, that is frivolous or malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief against a defendant who is immune from such relief. If the complaint is dismissed on screening, there will be no refund of the filing fee, and an inmate proceeding IFP is still required to pay the \$350 filing fee over time.

If Plaintiff fails to timely file a completed IFP application and financial certificate or pay the filing fee, the court will recommend dismissal of this action without prejudice.

IT IS SO ORDERED.

Dated: February 12, 2024



Craig S. Denney
United States Magistrate Judge